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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 11th August 2005

No. 6822-II/1 (B)-94/1997(Pt.)/LE.— In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award dated the 28th May 2005 in I.D. Case No. 123/2000 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial disputes between the Management of the District Agriculture Officer, Kendrapara its workman Shri Gangadhar Senapati was referred for adjudication is hereby published as in the scheduled below:—

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 123 OF 2000

Dated the 28th May 2005

Present:

Shri P.K. Sahoo, O.S.J.S. (Junior Branch),
Presiding Officer,
Labour Court,
Bhubaneswar.

Between:

The District Agriculture Officer, Kendrapara . . First party—Management

And

Shri Gangadhar Senapati,
At/ Town Balarampur,
P.O. Shri Baldevjew,
Dist. Kendrapara.

. . Second party—Workman

Appearances:

None

. . For first party—Management

Shri Gangadhar Senapati

. . Second party workman himself

AWARD

The State Government in exercise of powers conferred by sub-section (5) of Section 12 read with clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 have referred the matter in dispute to this Court in the Labour & Employment Department Memo. No.11447 (5)/LE., dated the 29th May 2000 for adjudication and Award.

2. The terms of reference may briefly be stated as follows:

“Whether the termination of services of Shri Gangadhar Senapati, Contingent Sweeper by the District Agriculture Officer, Kendrapara with effect from 16-3-1997 is legal and/or justified? If not, to what relief Shri Senapati is entitled?”

3. Stating in a little detail the case of the workman Shri Gangadhar Senapati is that he was engaged as contingent Sweeper-*cum*-Mali with effect from 1984 under the Management of District Agriculture Officer, Kendrapara (in short the Management). He continued to work as such till he was terminated from service on 16-3-1997. According to the workman although he had rendered continuous uninterrupted service for about 12 years but the Management without any rhyme or reason had illegally terminated him from service with effect from 16-3-1997 without giving any prior notice or notice pay and retrenchment compensation. The workman while challenging the action of the Management in terminating him from service with effect from 16-3-1997 has now prayed for his reinstatement in service with full back wages and other service benefits. Hence the reference.

4. The Management, on the other hand, filed written statement opposing the claim of the workman. Subsequently the Management did not contest the case and remained away from the hearing as a result the Management was set *ex parte*. The *ex parte* hearing commenced on 4-1-2005.

5. During *ex parte* hearing the workman has examined himself as W.W.1 and has relied upon the xerox copies of the documents such as, experience certificate, letter of the District Labour Officer, Kendrapara, order Dt. 7-3-1998 of the Orissa Administrative Tribunal, Cuttack Branch, Cuttack letter of the District Agriculture Officer, Kendrapara Dt. 17-4-1998 and failure report marked as Exts.1 to 6 respectively.

6. During *ex parte* evidence the workman has clearly supported and corroborated the avowments reflected in his statement of claim. It is in the evidence that he was working under the Management as contingent Sweeper-*cum*-Mali with effect from 1984 till he was terminated from service on 16-3-1997. Although he had worked for more than 12 years but the Management without any rhyme or reason illegally terminated him from service with effect from 16-3-1997 without giving any notice or notice pay and retrenchment compensation to him. He has further stated that there was no allegation against him during the tenure of his service and no enquiry was also conducted against him. In course of his evidence he has duly proved the xerox copies of certain documents already relied upon by him marked as Exts.1 to 6 respectively. According to him the action of the Management in terminating his service with effect from 16-3-1997 was illegal and unjustified for which he has now prayed for his reinstatement in service with back wages. The evidence of the workman has nowhere been challenged by the Management during evidence. In absence of any rebuttal evidence absolutely I find no cogent reason to dis-believe his evidence. Rather the unchallenged testimony of the workman clearly goes to show that he had rendered continuous uninterrupted service with effect from 1984 till he was terminated from service on 16-3-1997 and the Management while terminating his service had not given any notice or notice pay and retrenchment compensation, which in my view, are in complete violation of section 25-F of the Industrial Disputes Act, 1947 (in short the Act). Law is well settled that the provisions of section 25-F of the Act is mandatory and any violation thereof will render the retrenchment void *ab initio*. On a close scrutiny of the evidence of the workman on record and the documents relied upon by

him, I am of the considered view that the action of the Management in terminating the services of the workman with effect from 16-3-1997 was illegal, unjustified and against the mandate of section 25-F of the Act. In that view of the matter, the workman is entitled to the relief of reinstatement.

7. The reference clearly shows that the workman has been terminated from service with effect from 16-3-1997 and no material is placed before me that he has been gainfully employed elsewhere with effect from date of his termination. In such premises, the workman is entitled to be reinstated in service, but on the facts and circumstances of the case, as the workman had not worked with effect from the date of his termination, he is entitled to get compensation towards back wages a lump sum amount Rs. 3,000 which in my opinion would meet the ends of justice in the instant case.

8. Hence it is ordered.

ORDER

That the termination of services of Shri Gangadhar Senapati, contingent Sweeper by the District Agriculture officer, Kendrapara with effect from 16-3-1997 is neither legal nor justified. The workman Shri Senapati is entitled for reinstatement in service with a lump sum compensation of Rs. 3,000 (Rupees Three Thousand) only towards back wages.

The reference is thus answered accordingly *ex parte*.

Dictated and Corrected by me.

P.K. SAHOO
28-5-2005,
Presiding Officer,
Labour Court,
Bhubaneswar.

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Presiding Officer,
Labour Court,
Bhubaneswar.

By order of the Governor
D.MISHRA
Under-Secretary to Government